

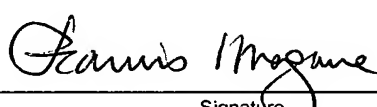
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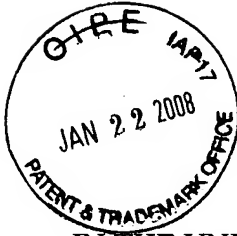
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		944-001.064	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>January 18, 2008</u> Signature <u>Marilyn O'Connell</u> Typed or printed name <u>Marilyn O'Connell</u>		Application Number	Filed
		10/099,902	March 13, 2002
		First Named Inventor	
		Matt i SALMI	
		Art Unit	Examiner
		2143	A.H. Bilgrami
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/> applicant/inventor.		Signature	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		Francis J. Maguire	
		Typed or printed name	
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>31,391</u>		<u>(203) 261-1234</u>	
		Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u>January 18, 2008</u>	
		Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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DOCKET: 944-001.064

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

1st Named Inventor: Matti Salmi

App. Serial No.: 10/099,902

Examiner: Asghar H. Bilgrami

Filing Date: March 13, 2002

Group Art Unit: 2143

Title of Invention: Realization of Presence Management

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir,

In response to the final Office Action of October 18, 2007 and Advisory Action of January 8, 2008, a Notice of Appeal is filed herewith. Applicant respectfully requests a pre-appeal brief conference for reviewing the pending application.

REMARKS

Status of the Application

This application includes claims 1-64. In the final Office Action, all the claims are rejected. With this paper, none of the claims are amended, none are canceled, and none are added. A complete list of the pending claims can be found in a previous amendment filed on August 12, 2007.

Claim Rejections under 35 USC §103

Claim 1-64 are rejected under 35 USC §103(a) as being unpatentable over Desai et al (U.S. Patent No. 6,820,204, Desai hereinafter) in view of Tornabene et al (U.S. Publication No. 2002/0023132, Tornabene hereinafter). Among the rejected claims, claims 22, 42 and 63 are independent.

Regarding the independent claims 22, 42 and 63, the Office acknowledged that Desai did not explicitly disclose the following feature:

wherein the presence information comprises one or more presence attributes, the values of the attributes indicating presence status of a user or a client of the user at the time the presence information is provided (emphasis underlined).

However, the Office asserts that: "In the same field of endeavor Tornabene disclosed wherein the presence information comprises one or more presence attributes, the values of the attributes indicating presence status of a user or a client of the user at the time the presence information is provided (paragraphs 21 & 72)." (See page 3, lines 9-16 of the Office Action, emphasis underlined by Applicant)

The present application claims priority to U.S. Provisional Applications 60/276,273, 60/276,004, 60/276,176, all filed on March 15, 2001, and U.S. Provisional Application 60/275,679, filed on March 14, 2001. The application of Tornabene, serial number 09/810,625, was filed on March 19, 2001, later than the 35 USC §119(e) priority dates of the present application.

However, the application of Tornabene, 09/810,625, claims priority to U.S. Provisional Application 60/189,973, filed on March 17, 2000. The provisional application 60/189,973 (Tornabene Provisional hereinafter) may be used as a prior art reference under 35 USC §102(e). Regarding applying references under 35 USC §102(e), MPEP 706.02(f)(1) states that:

The 35 USC 102(e) date of a reference that did not result from, nor claimed the benefit of, an international application is its earliest effective US filing date, taking into consideration any proper benefit claims to prior US applications under 35 USC 119(e) or 120 if the prior application(s) properly supports the subject matter used to make the rejection (emphasis underlined).

Tornabene (Publication No. 2002/0023132), in this case, may be used as a prior art reference if the Tornabene Provisional (Provisional Application 60/189,973) properly supports the subject matter used to make the rejection.

The paragraphs [0021] and [0072] of Tornabene, cited by the Office in the final Office Action, are quoted in their entirety as follows:

[0021] Referring to FIG. 1, a communications system 100 is capable of delivering and exchanging data between a client system 105 and a host system 110 through a communications link 115. The client system 105 typically includes one or more client devices 120 and/or client controllers 125. For example, the client system 105 may include one or more general-purpose computers (e.g., personal computers), one or more special purpose computers (e.g., devices specifically programmed to communicate with each other and/or the host system 110), or a combination of one or more general-purpose computers and one or more special-purpose computers. The client system 105 may be arranged to operate within or in concert with one or more other systems, such as for example, one or more LANs ("Local Area Networks") and/or one or more WANs ("Wide Area Networks").

[0072] The group administrator 6370 is configured to keep track of information about current group members and to provide automatically updated services to current group members. In one implementation, the group administrator 6370 includes a group member profile sever 6372 configured to enter, update, retrieve, store, edit, manipulate, or otherwise process information about the current members of a group and a database 6374 for storing information associated with group members. The group administrator 6370 may be configured to gather and track information about the online status of and services provided to current group members. In one implementation, the group administrator 6370 communicates with an IM server 6902 that monitors the online status and capabilities of group members. The group administrator 6370 also may, for example, communicate with the OSP Host Complex 680 or the Internet 665 to gather and track such information.

Paragraph [0021] is essentially a general description of a communication system shown in Fig. 1 (which corresponds to Fig. 1 of Tornabene Provisional). Neither Fig. 1 nor

the paragraph [0021] discloses the above-noted claim limitation "wherein the presence information comprises one or more presence attributes, the values of the attributes indicating presence status of a user or a client of the user at the time the presence information is provided."

Paragraph [0072] is part of the description of a communication system 600 shown in Fig. 6. In this paragraph, elements 6370 (group administrator), 6372 (profile server), 6374 (database) and 6902 (IM server) of the system 600 are mentioned. In particular, Tornabene discloses that the group administrator 6370 is configured to keep track of information about current group members and to provide automatically updated services to current group members. The group administrator 6370 may be configured to gather and track information about the online status of and services provided to current group members.

Tornabene and Tornabene Provisional are not identical in contents. Tornabene Provisional (which lists David Weiden as inventor on the cover page) has four parts. The first part is a fifteen-page document titled "Communication System," the second part is some miscellaneous documents about group membership management, the third part includes figures 1 to 6, and the fourth part is another figure. Apparently, contents of the first part and the third part are included in the utility application of Tornabene.

Paragraphs [0020-0064] of Tornabene can be reasonably recognized as originated from part 1, page 1 to page 14, line 7 of Tornabene Provisional. Figures 1 to 5 of Tornabene are almost identical to Figures 1 to 5 of Tornabene Provisional. Paragraphs [0065-0096] of Tornabene, which describe Figures 6, 7 and 8 of Tornabene, are completely different from page 14, line 8 to page 15 of Tornabene Provisional, which describes Figure 6 of Tornabene Provisional. Figure 6 of Tornabene bears no resemblance to Figure 6 of Tornabene Provisional. In particular, the group administrator 6370 is not shown in Figure 6 of Tornabene Provisional. The functions of the group administrator 6370 as disclosed in Tornabene, i.e. keep tracking of information about current group members, providing automatically updated services to current group members, gathering and tracking information about the online status of and services provided to current group members,

communicating with an IM server 6902 that monitors the online status and capabilities of group members, are not disclosed or suggested anywhere in the Tornabene Provisional.

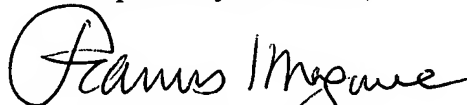
Clearly, the above functions of the group administrator 6370 are relied upon by the Office in rejecting the claim limitation "wherein the presence information comprises one or more presence attributes, the values of the attributes indicating presence status of a user or a client of the user at the time the presence information is provided." However, the subject matter in Tornabene that the Office uses to make the rejection is not properly supported by the Tornabene Provisional. Therefore, Tornabene is not a valid prior art reference as required by 35 USC §102(e).

Based on the above, the rejection of claim 1-64 under 35 USC §103(a) over Desai in view of Tornabene is clearly in error. Applicant respectfully requests the rejection be reconsidered and withdrawn.

Conclusion

For all the foregoing reasons, it is believed that all of the claims of the application are in condition for allowance and their passage to issue is earnestly solicited. Applicant urges the Examiner to call the undersigned agent to discuss the present response if there are any questions.

Respectfully submitted,



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